Permit No.: NDG-070000

Effective Date: April 1, 2005

Division of Water Quality

Expiration Date: March 31, 2010

AUTHORIZATION TO DISCHARGE UNDER THE NORTH DAKOTA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Chapter 33-16-01 of the North Dakota Department of Health rules as promulgated under Chapter 61-28 (North Dakota Water Pollution Control Act) of the North Dakota Century Code, operations engaged in temporary dewatering activities

are authorized to discharge from locations throughout the state of North Dakota

to waters of the State

in accordance with effluent limitations, monitoring requirements, and other conditions set forth in permit.

This permit and the authorization to discharge shall expire at midnight,

March 31, 2010.

Date

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PART I – PERMIT COVERAGE AND LIMITATIONS

A. COVERAGE UNDER THIS PERMIT

- 1. **Applicability of General Permit.** Under this general permit, authorization to discharge relatively uncontaminated waters from temporary dewatering activities into the waters of the state of North Dakota may be granted. The water discharged from any of these activities must not contribute non-conventional or toxic pollutant loadings to the receiving stream.
- 2. **Request for Authorization.** To be eligible for authorization to discharge under this general permit, the owner, operator, and/or authorized agent of any facility conducting temporary dewatering activities must submit a Short Form C, North Dakota Pollutant Discharge Elimination System permit application to the North Dakota Department of Health at its address in Part II.E of this permit at least 30 days prior to the anticipated start of any discharge. The Department will then have 30 days to grant discharge authority, deny discharge authority, or request additional information. If the Department fails to act on any request within the 30-day period, the facility is automatically covered under the permit. The Department may waive, at its discretion, the 30-day period in special cases.

After coverage has been obtained, all permittees shall be required to provide the following information to the Department, in writing, at least five days prior to the start of any discharge. If all this information was included in/with the permit application, it need not be resubmitted.

- a. The name, address, and descriptive location of the facility.
- b. The name of principal in charge of operation of the facility.
- c. The name of receiving waters.
- d. The location of the discharge point(s).
- e. A brief description of the type of activity resulting in the discharge.
- f. A map or schematic diagram showing the general area and/or routing of the activity.
- g. The anticipated total volume to be discharged.
- h. The anticipated average and maximum rates of discharge.
- i. The anticipated dates of discharge.
- j. For hydrostatic testing only, the type (size and material) of pipe or vessel, whether the pipe or vessel has been used or is of virgin material and a description of the fluid normally transported through the pipeline or contained in the vessel.
- k. For hydrostatic testing only, the source of water to be used in the testing. If water is to be obtained from a well, (other than used for potable water supply) or from an impoundment, the concentration of total dissolved solids or the specific conductance of this water shall be reported.
- I. Describe briefly what measures will be taken to minimize, within practical means, the effects of the discharge on water quality in the receiving waters.

The Department may waive, at its discretion, some of the items listed above and/or the five-day period in special cases.

3. Discharges Not Covered.

- a. Dewatering discharges associated with process wastewater or any water containing sanitary waste.
- b. Any discharge not permitted correctly by local, state, or federal agencies (such as U.S. Army Corps of Engineers Section 404 permits).
- b. This general permit does not substitute for obligations under the National Environmental Policy Act (NEPA), Endangered Species Act (ESA), or National Historic Preservation Act (NHPA), it is your responsibility to ensure the project and resulting discharges comply with the respective requirements.
- c. Discharges to waters for which there is a total maximum daily load (TMDL) allocation for sediment and/or parameters associated with sediment transport are not covered unless you develop a Pollution Prevention plan that is consistent with the assumptions, allocations and requirements in the approved TMDL. If a specific numeric wasteload allocation has been established that would apply to the project's discharges, the permittee(s) must incorporate that allocation into the Pollution Prevention plan and implement necessary steps to meet that allocation.

B. EFFLUENT LIMITATIONS

Effective immediately and lasting throughout the life of this general permit, the quality of effluent discharged from the facility shall, as a minimum, meet the limits as set forth below:

1. Numeric limitations as follows:

PARAMETER

<u> </u>	
Total Suspended Solids - mg/l	100.0
Total Residual Chlorine - mg/l	0.1 a/
Total Petroleum Hydrocarbons - mg/l	1.0 b/
,	
pH - S.U.	shall be between 6.0 and 9.0

- a/ Applies only if using chlorinated water.
- b/ If a visible sheen of oil and/or grease is observed in the discharge, a grab sample shall be collected and the Department shall be contacted.

DAILY MAXIMUM

- 2. There shall be no discharge of process generated wastewater except wastewater resulting from temporary dewatering activities described in the Short Form C.
- 3. There shall be no direct discharge of any solids and/or sludges generated by the treatment of the discharge.
- 4. There shall be no discharge of sanitary wastewater from toilets or related facilities.
- 5. There shall be no discharge of floating solids or visible foam in other than trace amounts.
- 6. No chemical may be added to the discharge unless prior written permission for the use of the chemical is granted by the Department.
- 7. If the Department, through best professional judgment, determines a specific pollutant or type of pollutant is present it may require monitoring and/or limitation of that pollutant.

8. Dewatering or basin draining (e.g., pumped discharges, trench/ditch cuts for drainage) related to the permitted activity must be managed with the appropriate BMPs, such that the discharge does not adversely affect the receiving water or downstream landowners. The Permittee(s) must operate the discharge to minimize the release of sediment and provide energy dissipation measures to adequately protect the outlet from erosion.

C. MONITORING REQUIREMENTS

- 1. **Daily Logs.** The permittee shall maintain a log relating to the authorized discharge(s). The following information shall be included in the summaries with appropriate discharge monitoring reports:
 - a. flow information and dates discharged;
 - b. sample results;
 - c. records of visual observations;
 - d. notations of any problems relating to treatment of the discharge; and
 - e. name of receiving water.
- 2. Samples shall be taken as often as necessary to provide representative information as to the nature and volume of the discharge(s). At a minimum, samples of each discharge shall be taken as follows:

PARAMETER	SAMPLE FREQUENCY a/	SAMPLE TYPE
Flow Volume - GPD	Daily *	Calculated or Instantaneous
Total Flow (Drain) - MGAL		Calculated
pH - S.U.	<u>d</u> /, <u>e</u> /	Grab
Oil and Grease	Daily	Visual <u>b</u> /
TPH - mg/L	Biweekly, <u>e/</u>	Grab
Total Residual Chlorine - mg/l	Daily <u>c</u> /, <u>e</u> /	Instantaneous
Total Suspended Solids - mg/l	<u>d</u> /, <u>e</u> /	Grab

- * This parameter is not limited. However, the Department may impose limitations based on sample history and to protect the receiving waters.
- a/ If the duration of the discharge is shorter than the required sample frequency, a minimum of one (1) sample shall be taken for all parameters.
- b/ Oil and grease shall be visually monitored daily. A TPH sample shall be taken if a visual sheen is observed.
- c/ Sampling shall only be required if the Department determines that this contaminant may be present or the dewatering activity has associated effluent guidelines.
- d/ A sample shall be taken at the beginning of the discharge, and near the end of the discharge. In addition, at least one (1) sample shall be taken during each week of discharge.
- e/ In lieu of sampling for this parameter, the Department may allow the facility to implement a pollution prevention plan that includes best management practices to prevent total suspended solids and other pollutants from entering the waters of the state.

D. POLLUTION PREVENTION PLAN

- Deadlines for Plan Preparation and Compliance. If the permittee develops a pollution prevention plan instead of sampling, the plan must be developed and implemented prior to the start of dewatering.
- 2. Contents of Plan. The plan shall include, at a minimum, the following items:
 - a. Site Description. Each plan shall provide a description of pollutant sources and other information as indicated below:
 - i. The type of dewatering activity;
 - ii. Estimates of the total volume of water to be discharged;
 - iii. The name of surface waters where discharging; and
 - iv. A site map indicating:
 - drainage patterns;
 - (2) location of major structural and nonstructural controls identified in the plan;
 - (3) location of areas where stabilization practices are expected to occur;
 - (4) surface waters and aerial extent of wetland acreage; and
 - (5) locations where discharging to a surface water.
 - Best Management Practices. The plan shall describe for each dewatering activity identified in the site description, appropriate best management practices and when they will be implemented.
 - c. Inspections. The permittee shall insure that qualified personnel inspect the site at least once each day. The inspection shall include the dewatering site, areas where the best management practices are being implemented and the discharge location. These areas shall be inspected to ensure that the best management practices are operating correctly and for evidence of, or the potential for, pollutants entering the receiving waters. If any pollutants are suspected of being discharged, a sample must be taken for those parameters listed in Part I.B-1 of this permit, at a minimum.

The permittee shall maintain a notebook recording information obtained during the inspection. At a minimum, the notebook shall include the following:

- (1) Date and time of the inspection;
- (2) Name of the inspector(s);
- (3) Identification of operational problems and/or maintenance problems;
- (4) Recommendations, as appropriate, to remedy identified problems;
- (5) A brief description of any actions taken with regard to problems identified; and
- (6) Other information, as appropriate.

The permittee shall maintain the notebook for a minimum of three years, or as requested by the North Dakota Department of Health or the U.S. Environmental Protection Agency.

3. Signature and Plan Review

- a. The plan shall be signed in accordance with the signatory requirements and retained on-site at the site which generates the dewatering discharge.
- b. The permittee shall make plans available upon request to the Department or in the case of a discharge through a municipal separate storm sewer system, to the operator of the municipal system.
- c. The Department may notify the permittee at any time that the plan does not meet the minimum requirements of this part. Such notification shall identify those provisions of the permit which are not being met by the plan and identify which provisions require modifications in order to meet the minimum requirements. Within 7 days of notification, the permittee shall make the required changes to the plan and shall submit to the Department a written certification that the requested changes have been made.
- 4. **Keeping Plans Current.** The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the state. The plan shall also be amended if the plan proves to be ineffective in eliminating or significantly minimizing pollutants present in the dewatering discharge.

PART II – SELF MONITORING AND REPORTING

- A. **Representative Sampling.** All samples and measurements taken shall be representative of the discharge.
- B. **Test Procedures.** The collection and transportation of all samples shall conform to EPA preservation techniques and holding times. All laboratory tests shall be performed by a certified laboratory in conformance with test procedures pursuant to 304(h) of the Clean Water Act. The method of determining the total amount of water discharged shall provide results within 10 percent of the actual amount.
- C. **Recording of Results.** For each sample taken, the name of the sampler, the exact place, and the date and time of the sampling shall be recorded. For each sample analyzed, the name of the laboratory, the name of the analyzer, the analytical techniques used, the test results, and the date and time of the analysis shall be recorded.
- D. **Additional Monitoring.** If the discharge is monitored more frequently than this permit requires, all additional results, if in compliance with Part II.B, Test Procedures, above, shall be included in the summary on the Discharge Monitoring Report.
- E. **Reporting.** Monitoring results shall be summarized and reported on Discharge Monitoring Report forms. If no discharge occurs during a reporting period, "no discharge" shall be reported. Each report shall cover a period of three months. The first period shall be January 1 through March 31; the second period shall be April 1 through June 30, etc.

All reports must be postmarked by the last day of the month following the end of each reporting period. Duplicate signed copies of these, and all other reports required herein, shall be submitted to the Department and EPA at the following addresses:

ND State Department of Health Division of Water Quality PO Box 5520 Bismarck, ND 58506-5520

U.S. Environmental Protection Agency Attn: Enforcement Office (ENF-PT) One Denver Pl., Ste. 500 999 - 18th St. Denver, CO 80202-2466

- F. **Local Authority.** This permit does not preempt or supersede the authority of local agencies to prohibit, restrict, or control discharges of storm water to storm sewer systems or other water courses within their jurisdiction.
- G. **Notice of Termination (NOT).** Permittees wishing to terminate coverage under this permit must submit a Notice of Termination (NOT) or other written request identifying the facility, reason why the permit is no longer needed and signed in accordance with Part III.F-2, Signatory Requirement of this permit. Compliance with the conditions of this permit is required until an official cancellation letter from the Department is received.

PART III - STANDARD CONDITIONS

- A. **Duty to Comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give the Department advance notice of any planned changes at the permitted facility or of any activity which may result in permit noncompliance.
- B. **Operation and Maintenance.** The permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit and with the requirements of the Pollution Prevention plan. If necessary to achieve compliance with the conditions of this permit, this shall include the operation and maintenance of backup or auxiliary systems.
- C. **Planned Changes.** The Department shall be given advance notice of any planned changes at the permitted facility or of an activity which may result in permit noncompliance. Any anticipated facility expansions, production increase, or process modifications which might result in new, different, or increased discharges of pollutants shall be reported to the Department as soon as possible.
- D. **Duty to Provide Information.** The permittee shall furnish to the Department, upon request, copies of records required to be kept by this permit. When a permittee becomes aware that it failed to submit any relevant facts or submitted incorrect information in a permit application or any report, it shall promptly submit such facts or information.
- E. **Records Retention.** All records and information (including calibration and maintenance) required by this permit shall be kept for at least three years or longer if requested by the Department or EPA.
- F. **Signatory Requirements.** All applications, reports or information submitted to the Department shall be signed and certified.
 - 1. All permit applications shall be signed by a responsible corporate officer, a general partner, or a principal executive officer or ranking elected official.
 - 2. All reports required by the permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - (a) The authorization is made in writing by a person described above and submitted to the Department; and
 - (b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters.

If an authorization under item F above is no longer accurate for any reason, a new authorization satisfying the above requirements must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.

Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted herein. Based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

- G. Immediate Notification. The permittee shall report any noncompliance of discharge which may seriously endanger health or the environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstance. The report shall be made to the EPA, Region VIII, National Emergency Response Center at 1-800-424-8802 and the State of North Dakota, Division of Emergency Management, 1-800-472-2121. In addition, a written submission to both the Department and EPA shall be provided within five days of the time that the permittee became aware of the circumstances. The submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; the estimated time noncompliance is expected to continue if it has not been corrected; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- H. **Bypassing**. Any bypass is prohibited except where unavoidable to prevent loss of life, personal injury, or severe property damage and no feasible alternatives to the bypass. The permittee shall provide notification of unanticipated bypasses as may be required by Part III.G, Immediate Notification. If, for other reasons, a bypass is considered necessary, a request to bypass shall be submitted, at least 15 days in advance if possible, to the Department. No bypass of this type shall occur until permission has been obtained from the Department.
- I. Upset Conditions. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of the following paragraph are not met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (a) An upset occurred and the permittee can identify its cause(s);
- (b) The permitted facility was, at the time, being properly operated;
- (c) The permittee submitted notice of the upset as required under Part III.G, Immediate Notification; and
- (d) The permittee complied with any remedial measures required under Part III.J, Duty to Mitigate.

In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

- J. **Duty to Mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. The permittee, at the Department's request, shall provide accelerated or additional monitoring as necessary to determine the nature and impact of any discharge.
- K. **Removed Materials.** Collected screenings, grit, solids, sludge, or other pollutants removed in the course of treatment shall be buried or disposed of in such a manner to prevent any pollutant from entering any waters of the state or creating a health hazard.

- L. Right of Entry. The permittee shall allow Department and EPA representatives, at reasonable times and, if requested, upon the presentation of credentials, to inspect any facilities or equipment (including monitoring and control equipment), to sample discharges, and to have access to and copy any records required to be kept by this permit. For facilities which discharge to a municipal or other separated storm sewer, this shall also pertain to authorized representatives of the municipal operator or the separate storm sewer receiving the discharge.
- M. **Availability of Reports**. Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.
- N. **Transfers**. This permit is not transferable except upon the filing of a Statement of Acceptance by the new party and subsequent Department approval. The current permit holder should inform the new controller, operator, or owner of the existence of this permit and also notify the Department of the possible change.
- O. **New Limitations or Prohibitions**. The permittee shall comply with any effluent standards or prohibitions established under Section 306(a), Section 307(a), or Section 405 of the Act for any pollutant (toxic or conventional) present in the discharge or removed substances within the time identified in the regulations, even if the permit has not yet been modified to incorporate the requirements.
- P. **Permit Actions**. This permit may be modified, revoked and reissued, or terminated for cause. Also, if there is evidence indicating potential or realized impacts on water quality due to any dewatering discharge associated with industrial activity covered by this permit, the owner or operator of such discharge may be required to obtain an individual permit or coverage under an alternative general permit in accordance with this Part. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. The following pertains to individual or alternative general permits:
 - (a) The Department may, at any time and by written notification only, require any person authorized by this permit to apply for and obtain either an individual NDPDES permit or to seek coverage under an alternative NDPDES general permit. Any person covered by this general permit may request to be excluded from such coverage by either applying for an individual NDPDES permit, or filing a Notice of Intent to be covered under an alternative NDPDES general permit.
 - (b) When an individual NDPDES permit is issued to a person otherwise subject to this permit or the person is approved for coverage under an alternative NDPDES general permit, the applicability of this permit to the individual permittee is automatically terminated upon the effective date of the individual permit or the date of approval for coverage under the alternative general permit. When an individual NDPDES permit is denied to a person otherwise subject to this permit, or the person is denied for coverage under an alternative NDPDES general permit, the applicability of this permit remains in effect, unless otherwise specified by the Department.
- Q. **Need to Halt or Reduce.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- R. **State Laws.** Nothing in this permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation preserved under Section 510 of the Act.

- S. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation preserved under Section 311 of the Act.
- T. **Property Rights.** The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.
- U. **Severability.** The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.
- V. **Duty to Reapply.** Any request to have this permit renewed should be made thirty days prior to its expiration date.

PART IV - DEFINITIONS

"Best Management Practices" or "(BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control construction site runoff, spillage, or leaks, sludge, or waste disposal, or drainage from raw material storage.

"Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

"Composite" for monitoring requirements, means a sample composed of a minimum of four grab samples collected at equally spaced two hour intervals and proportioned according to flow.

"Daily maximum concentration" means the greatest discharge concentration during any calendar day. If more than one sample is taken on a calendar day, the average of all such samples shall be the daily concentration for that day.

"Department" means the North Dakota Department of Health, Division of Water Quality.

"Grab," for monitoring requirements, means a single "dip and take" sample collected at a representative point in the discharge stream.

"Instantaneous," for monitoring requirements, means a single reading, observation, or measurement. If more than one sample is taken during any calendar day, each result obtained shall be considered.

"Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

"Thirty Consecutive Day Period" means the average discharge concentration during a 30-consecutive day period. It shall be determined by the summation of all daily concentrations for 30 days divided by the total number of days on which the values were obtained. If more than one sample is taken on a calendar day, the average of all such samples shall be the daily concentration for that day.

"Total Maximum Daily Load" or "TMDL" means the amount of a particular pollutant that a particular stream, lake, estuary or other water body can "handle" without violating state water quality standards. A document called the 303d list of impaired waters of the state can be found on the state's web site: http://www.health.state.nd.us/wq/sw/Z2_TMDL/A_Main.htm

"Toxic Pollutant" means any pollutant listed as toxic under § 307(a)(1) of the Clean Water Act.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventative maintenance, or careless or improper operation.

"Waters of the State" means any and all surface waters that are contained in or flow in or through the State of North Dakota as defined in NDCC 61-28-02. This definition includes all water courses, even if they are usually dry.